

OGC Has Reviewed

OGC 77-4760

26 July 1977

MEMORANDUM FOR: Acting Deputy to the DCI for the Intelligence
Community
Deputy Director for Administration
Deputy Director for Operations
Deputy Director for Science & Technology
Deputy Director for Intelligence
Deputy to the DCI for National Intelligence Officers
Legislative Counsel
Inspector General
Comptroller
Director, Equal Employment Opportunity

STATINTL.

FROM

:

[REDACTED]

Assistant General Counsel

SUBJECT

: Draft Executive Order on "Logging of Outside Contacts"

1. Your comments are requested on the proposed draft Executive Order which is attached. The proposed Order would affect the senior officers of the Agency and the IC Staff, if promulgated in its present form. The stated purposes of the Order are to discourage attempts by persons outside government to use improper influence and to strengthen public confidence in the integrity of Executive decision-making.

2. In brief, it would require that the DCI, the DDCI and the subordinate officials which these officers judge to have substantial influence in making policy decisions to log all oral communications with outside parties which cover official business and which are not covered by the several exceptions provided. These logs would be open to public inspection.

3. My preliminary impression is that much, but not all, of the business conducted by the Agency would be covered by the exceptions. With respect to that which is not excepted, this proposed Order would create a substantial administrative burden.

4. There is considerable time pressure on our response. OMB believes it can consider an extension to 5 August, with the understanding that we will forward preliminary comments by 1 August. I propose to forward this Office's comments to serve as these preliminary comments, while awaiting your response.

5. Please respond as soon as possible, and in any event by COB 3 August.

STATINTL

Attachment

cc: Asst to the DDCI
Executive Secretary



EXECUTIVE ORDER

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LOGGING OF OUTSIDE CONTACTS

The American people have a legitimate interest in having available a public record of contacts between officials of the Executive Branch and citizens seeking to influence Federal action and policy. A system of recording the contacts of such outside parties with Executive Branch officials will discourage attempts to use improper influence and strengthen public confidence in the integrity of Executive decision-making.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including section 301 of title 3 and section 7301 of title 5 of the United States Code and as President of the United States, it is hereby ordered as follows:

Section 1. Definitions. As used in this order:

(a) "agency" means an executive agency (other than the General Accounting Office) as defined in section 105 of title 5 of the United States Code, and includes all independent regulatory bodies and all offices within the Executive Office of the President and the U.S. Postal Service and the Postal Rate Commission;

(b) "executive official" means

(1) any individual appointed by the President by and with the advice and consent of the Senate to a position in any agency and any officer, paid at the rate of 0-7 or higher in the uniformed services, or

(2) any individual appointed by the President to a position in the Executive Office of the President and paid an annual salary equivalent to, or greater than, GS-15;

(c) "head of agency" means, in case of an agency headed by more than one person, the chair or comparable member of such agency;

(d) "outside party" means any individual not employed by or on behalf of any agency or military department;

(e) "official business" includes, but is not limited to, any case or matter under investigation by an agency; any suggested investigation; any agency rule-making, adjudicatory or licensing procedure; any agency personnel matter; any matter involving the expenditure of Federal funds; any matter involving proposed agency regulations or policies.

Section 2. Logging of Communications with Outside Parties.

(a) Except as provided in section 5, all executive officials shall record the data required in section 3 relating to each oral communication with an outside party concerning official business.

(b) Heads of agencies shall extend the coverage of this order to all officials in their agencies, in addition to executive officials, whom they determine to have substantial influence in the making of agency decisions.

(c) Heads of agencies are also authorized to determine whether the needs of their agencies and the public interest require more extensive regulation of officials' communications with outside parties and, if so, to promulgate such regulations.

Section 3. Nature of Log. The data to be recorded with respect to communications subject to section 2 are:

- (1) date of communication;
- (2) name and official status of the outside party; and
- (3) brief notation as to the subject matter of the communication.

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Section 4. Disclosure. Heads of agencies shall establish and maintain within their agencies effective programs for the prompt and convenient disclosure to the public of the records maintained pursuant to this order.

Section 5. Exceptions. The logging and disclosure provisions of this order do not apply to communications

(a) with members of the news media acting in their capacity as such;

(b) the disclosure of which pursuant to this order is subject to statutory prohibition or is protected by privilege; or

(c) the disclosure of which pursuant to this order would

(i) jeopardize information specifically required by Executive Order to be kept secret in the interest of national defense or foreign policy;

(ii) constitute a clearly unwarranted invasion of personal privacy;

(iii) impair an ongoing investigation or prosecution or disclose investigative techniques or procedures; or

(iv) endanger informants, confidential sources, or law enforcement personnel.

Section 6. Communications from Executive Office of the President Concerning Investigations. In addition to recording the data required by this order concerning oral communications with outside parties, all officials covered by this order shall maintain a record of oral communications originating from the Executive Office of the President concerning agency investigations, matters or cases involving particular individuals or groups, or suggesting the initiation of such investigations, matters or cases. The data required to be recorded shall be subject to the provisions of sections 3-5.

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Section 7. Supervision. (a) The Attorney General, or such other official as may be designated by the President, shall:

(i) render to the heads of agencies such advice as may be needed to enable them to implement and maintain the requirements of this order;

(ii) issue such guidelines as may be necessary to carry out the purposes of this order;

(iii) review implementation and maintenance of the requirements of this order to insure adherence to its provisions; and

(iv) recommend to the President from time to time such revisions in this order as may appear necessary to insure that the process of administrative decision-making is fair and effective.

(b) Heads of agencies shall cooperate to the fullest extent practicable with the Attorney General to facilitate the performance of his responsibilities under subsection (a) of this section.

Section 8. Effective Date. This order shall be effective as of _____.